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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/682,051	10/09/2003	Raymond K. Selander	IFF-68	8139

48080 7590 03/07/2006

INTERNATIONAL FLAVORS & FRAGRANCES INC.
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EXAMINER	
CHORBAJI, MONZER R	
ART UNIT	**PAPER NUMBER**
1744	

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

8

Office Action Summary	**Application No.** 10/682,051	**Applicant(s)** SELANDER, RAYMOND K.	
	Examiner MONZER R. CHORBAJI	**Art Unit** 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-10,12-15,17-20 and 22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6-10,12-15,17-20 and 22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *23 December 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This non-final action is in response to the amendment received on 12/23/2005

Claim Objections

1. Claim 4 is objected to because of the following informalities:

In amended claim 4, line 2; the underlined feature "a change in the" should include "level of light". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 6-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Spector (U.S.P.N. 4,695,435).

With respect to claim 1, the Spector reference teaches an air freshener apparatus (col.3, lines 45-46) including the following: a source of air freshening chemical (figure 1:16), a photocell (figure 1:36), a shutoff circuit (figure 4:35), a fan assembly controlled by the optical sensor (col.4, lines 59-62 and col.4, lines 38-41) having a fan and a fan motor (figure 1:17 and 21) such that the fan assembly is placed adjacent the source of the air freshening chemical (figure 1:16 and 21), the fan motor is activated upon the photocell sensing a predetermined level of light (col.4, lines 58-67 and col.4, lines 38-41) and the shutoff circuit deactivates the fan motor after the photocell senses a level of light different from the predetermined level (col.5, lines 1-3;

col.5, lines 7-14). The Spector reference teaches that when the light bulb is turned off, the fan stops. This statement inherently means that the photocell senses the level of light when the light bulb is turned off has changed so that the relay deactivates the fan.

With respect to claims 6-7, the Spector reference teaches that when the light bulb is turned off, the fan stops (col.5, lines 12-14). This statement inherently means when the light bulb is turned off, the photocell recognizes change in the predetermined level of light. Then in response to this light change, the relay deactivates the fan motor upon a signal from the photocell. Further, the Spector reference teaches that the fan motor is driven by direct current (col.4, lines 3-4).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) as applied to claim 1 and further in view of Andeweg (U.S.P.N. 3,948,445).

With respect to claim 2 the Spector reference fails to teach the use of a wick; however, the Andeweg reference teaches the use of wick (figure 5:47) material. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by substituting fragrance beads for wick material since air freshener and/or insecticide substance can be impregnated in the wick material (Andeweg, col.3, lines 22-29) in order to deodorize air within enclosures.

With respect to claims 8-9, the Spector reference fails to teach the use of an AC line current and a plug that connects the motor to the AC line current via a wall outlet and a receptacle such that conventional wall outlets can power another device simultaneously with the air freshener. The Andeweg reference teaches the use of an AC line current (col.3, lines 63-66) and a plug (figure 1:12 and 13) that is capable of connecting the motor (figure 7:61) to the AC line current via a wall outlet (col.2, lines 35-42) and a receptacle such that a conventional wall outlets is capable of powering another device simultaneously with the air freshener shown in figure 1. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by adding a plug since such an addition results in a device that can be both plugged and powered by a source of electrical current as taught by the Andeweg reference (col.2, lines 35-39 and figure 1:12 and 13).

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) as applied to claim 1 and further in view of Dwyer (U.S.P.N. 3,192,008).

The teachings of the Spector reference have previously been set forth with respect to claims1 and 6-7; however, with respect to claim 3, the Spector reference teaches delivering fragrance over time without the fan (col.5, lines 3-7), but fails to disclose placing the air freshener beneath the fan. The Dwyer reference, which is in the art of deodorizing air, teaches placing the air freshener (20) beneath the fan (18). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by placing the deodorant beneath the fan as taught by the Dwyer reference since the fan creates a current of air which carries the deodorizing vapors from the deodorant and discharges them into the surrounding air (col.2, lines 12-15).

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) as applied to claim 1 and further in view of Spector (U.S.P.N. 4,707,338).

With respect to claim 4, the Spector (435) reference fails to teach deactivating the fan motor a predetermined time after the photocell senses a level of light different from the predetermined level. The Spector (338) reference teaches that after the photocell senses (col.6, lines 52-64) a change in level of light (light is turned off) from the predetermined level (light is turned on), the generator is activated for a predetermined period then the shutoff circuit deactivates the fan motor. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the air freshening apparatus of the Spector (435) reference to include a timer for deactivating the fan a predetermined time interval after the light is turned off as taught by the Spector (338) reference in order to conserve battery power and extends the effective life of the aroma cartridge (col.3, lines 46-48).

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) as applied to claim 1 and further in view of Gau et al (Pub. No. US 2004/0037764 A1).

With respect to claim 10, the Spector reference fails to teach the following: a microprocessor connected to fan motor and to a micropump and electro spray device, microprocessor drives the fan at a first predetermined frequency and the microprocessor drives the micropump and electron spray at a second frequency. The Gau reference, which is in the art of air deodorization, teaches the following: a central processing unit (i.e., microprocessor) is connected to a fan motor (paragraph 0028) and to a micropump (figure 4:30, 40 and 10) and also to an electro spray device (figure 2A: 14), microprocessor drives the fan at a first predetermined frequency (paragraph 0028) and the microprocessor drives the micropump and electron spray at a second frequency (paragraph 0028). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by providing a casing with known micropump unit and electrospray device connected to microprocessor as taught by the Gau reference to generate vapors at a preset quantities as a source of air freshening compound (paragraph 0027).

10. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) in view of Barradas (U.S.P.N. 5,735,918).

With respect to claim 12, the Spector reference teaches an air freshener apparatus (col.3, lines 45-46) including the following: a source of air freshening chemical (figure 1:16), a photocell (figure 1:36), a shutoff circuit (figure 4:35), a fan assembly controlled by the optical sensor (col.4, lines 59-62 and col.4, lines 38-41) having a fan and a fan motor (figure 1:17 and 21) such that the fan assembly is placed adjacent the source of the air freshening chemical (figure 1:16 and 21), the fan motor is activated upon the photocell sensing a predetermined level of light (col.4, lines 58-67 and col.4, lines 38-41) and the shutoff circuit deactivates the fan motor after the photocell senses a level of light substantially different from the predetermined level (col.5, lines 1-3 col.5, lines 7-14). The Spector reference teaches that when the light bulb is turned off, the fan stops. This statement inherently means that the photocell senses the level of light when the light bulb is turned off has changed so that the relay deactivates the fan); however, the Spector reference fails to disclose the use of a motion sensor. The Barradas reference, which is in the art of deodorizing air, teaches the use of motion sensor and light sensor to device (col.2, lines 30-34). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a motion sensor in the apparatus of the Spector reference as taught by the Barradas reference since such a substitution results in prolonging the usage life of the deodorant source since.

11. Claims 13 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) in view of Barradas (U.S.P.N. 5,735,918) as applied to claim 12 and further in view of Andeweg (U.S.P.N. 3,948,445).

With respect to claim 13 the Spector reference fails to teach the use of a wick; however, the Andeweg reference teaches the use of wick (figure 5:47) material. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by substituting fragrance beads for wick material since air freshener and/or insecticide substance can be impregnated in the wick material (Andeweg, col.3, lines 22-29) in order to deodorize air within enclosures.

With respect to claim 17, the Spector reference teaches that the fan motor is driven by direct current (col.4, lines 3-53).

With respect to claims 18-19, the Spector reference fails to teach the use of an AC line current and a plug that connects the motor to the AC line current via a wall outlet and a receptacle such that conventional wall outlets can power another device simultaneously with the air freshener. The Andeweg reference teaches the use of an AC line current (col.3, lines 63-66) and a plug (figure 1:12 and 13) that is capable of connecting the motor (figure 7:61) to the AC line current via a wall outlet (col.2, lines 35-42) and a receptacle such that a conventional wall outlets is capable of powering another device simultaneously with the air freshener shown in figure 1. As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by adding a plug since such an addition results in a device that can be both plugged and powered by a source of electrical current as taught by the Andeweg reference (col.2, lines 35-39 and figure 1:12 and 13).

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) in view of Barradas (U.S.P.N. 5,735,918) as applied to claim 12 and further in view of Dwyer (U.S.P.N. 3,192,008).

With respect to claim 14, both the Spector reference and the Barradas reference fail to teach placing the air freshener beneath the fan. The Dwyer reference, which is in the art of deodorizing air, teaches placing the air freshener (20) beneath the fan (18). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by placing the deodorant beneath the fan as taught by the Dwyer reference since the fan creates a current of air which carries the deodorizing vapors from the deodorant and discharges them into the surrounding air (col.2, lines 12-15).

13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) in view of Barradas (U.S.P.N. 5,735,918) as applied to claim 12 and further in view of Gau et al (Pub. No. US 2004/0037764 A1).

With respect to claim 20, both the Spector reference and the Barradas reference fail to teach the following: a microprocessor connected to fan motor and to a micropump and electro spray device, microprocessor drives the fan at a first predetermined frequency and the microprocessor drives the micropump and electron spray at a second frequency. The Gau reference, which is in the art of air deodorization, teaches the following: a central processing unit (i.e., microprocessor) is connected to a fan motor (paragraph 0028) and to a micropump (figure 4:30, 40 and 10) and also to an electro spray device (figure 2A: 14), microprocessor drives the fan at a first predetermined frequency (paragraph 0028) and the microprocessor drives the micropump and electron spray at a second frequency (paragraph 0028). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of the Spector reference by providing a casing with known micropump unit and electrospray device connected to microprocessor as taught by the Gau reference to generate vapors at a preset quantities as a source of air freshening compound (paragraph 0027).

14. Claims 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spector (U.S.P.N. 4,695,435) in view of Barradas (U.S.P.N. 5,735,918) and Dwyer (U.S.P.N. 3,192,008) as applied to claim 14 and further in view of Spector (U.S.P.N. 4,707,338).

With respect to claim 15, the Spector (435) reference fails to teach the use of a motion sensor and deactivating the fan motor a predetermined time after the motion sensor ceases to detect any additional motion. The Barradas reference, which is in the art of deodorizing air, teaches the use of motion sensor and light sensor to device (col.2, lines 30-34). As a result, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a motion sensor in the apparatus of the Spector (435) reference as taught by the Barradas reference since such a substitution results in prolonging the usage life of the deodorant source since.

With respect to claim 15, both Barradas reference and the Dwyer reference fail to teach the concept of deactivating the fan motor a predetermined time after the motion sensor ceases to detect any additional motion. The Spector (338) reference teaches that after the photocell senses (col.6, lines 52-64) a change in level of light (light is turned off) from the predetermined level (light is turned on), the generator is activated for a predetermined period then the shutoff circuit deactivates the fan motor. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the air freshening apparatus of the Spector (435) reference to include a timer for deactivating the fan a predetermined time interval after the light is turned off as taught by the Spector (338) reference in order to conserve battery power and extends the effective life of the aroma cartridge (col.3, lines 46-48).

With respect to claim 22, the Spector (435) reference teaches an air freshener apparatus (col.3, lines 45-46) such that the shutoff circuit (figure 4:35) immediately deactivates the fan motor after the photocell senses a level of light different from the predetermined level (col.5, lines 1-3 col.5, lines 7-14. The Spector (435) reference teaches that when the light bulb is turned off, the fan stops. This statement inherently means that the photocell senses the level of light when the light bulb is turned off has changed so that the relay deactivates the fan).

Response to Amendment

15. The Declaration filed on 12/23/2005 under 37 CFR 1.131 is sufficient to overcome the Kvietok et al (US 2004/0033171 A1) reference. However, Declaration under 37 CFR 1.131 is inappropriate to overcome the Spector (U.S.P.N. 4,695,435) reference which is statutory bar under 35 U.S.C. 120(b).

Remarks

16. The terminal disclaimer filed on 12/23/2005 has been accepted resulting in removing the nonstatutory double patenting rejections written in the action dated 08/52/2005. Also, 112 rejection, paragraph II has been withdrawn and the amendments to the drawings and to the specification submitted on 12/23/2005 have been accepted.

Response to Arguments

17. Applicant's arguments filed on 12/23/2005 have been fully considered but they are not persuasive.

Applicant throughout the Remarks section argues that the Declaration under 1.131 is sufficient to overcome the Spector (U.S.P.N. 4,695,435) reference. However, as shown in MPEP 715, II that Declaration under 37 CFR 1.131 is inappropriate to overcome a reference which is statutory bar under 35 U.S.C. 120(b).

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji MRC
Patent Examiner
AU 1744
03/06/2006

GLADYS J.P. CORCORAN
PRIMARY EXAMINER